

DEPARTMENT OF SOCIAL SERVICES

744 F Street, Sacramento, CA 95814



February 25, 1994

ALL-COUNTY LETTER NO. 94-17

TO: ALL COUNTY WELFARE DIRECTORS
ALL PUBLIC AND PRIVATE ADOPTION
AGENCIES
CDSS ADOPTIONS DISTRICT OFFICES

REASON FOR THIS TRANSMITTAL

- ☐ State Law Change
- ☒ Federal Law or Regulation
Change (reinterpretation)
- ☐ Court Order or Settlement
Agreement
- ☐ Clarification Requested by
One or More Counties
- ☐ Initiated by SDSS

SUBJECT: ADOPTION ASSISTANCE PROGRAM AND TITLE IV-E LINKAGE

REFERENCE: EAS 45-802.122

This letter provides interim instructions regarding changes in the manner in which federal (Title IV-E) eligibility should be determined in the Adoption Assistance Program (AAP).

The United States Department of Health and Human Services, Administration for Children and Families, has informed us that California is incorrectly determining federal AAP eligibility in some cases involving adoptions by caretaker relatives. The result of these incorrect determinations is that California has treated a substantial number of children as being eligible only for the state AAP program when the children are, in fact, eligible for the federal program. A preliminary review of available caseload characteristics data suggests that about twenty percent of the non-federal caseload may be affected. This error is due to a misinterpretation of Title IV-E AAP eligibility provisions made at the time the Title IV-E program was implemented in California.

This letter uses the term "relative" as it is defined in the AFDC Program, not as it is defined in the Adoptions Program. The AFDC definition includes people who were the child's legal relatives prior to the termination of parental rights. ~~The terms "agency" and "county" are used as defined in 22 California Code of Regulations 35000, which states: "'Agency' means a licensed California public or private adoption agency, or the department's adoption district offices."~~ "'County' means the income maintenance division of a county welfare department responsible for federal and state eligibility determination and payment of AAP benefits."

An AAP eligible child may be eligible for federal (Title IV-E) AAP if, at the time the adoption petition was filed, the child was eligible for either:

- o Title IV-E foster care (federal AFDC-FC),
- o Supplemental Security Income (SSI), or
- o Federal AFDC-FG or U and is being adopted by the relative with whom the child has been living (the "caretaker relative").

The federal eligibility determination error affects children in the last of the aforementioned groups. Children who were formerly considered eligible for state only AAP are eligible for federal AAP when all of the following conditions are present at the time the adoption petition is filed:

1. The child is being adopted by a caretaker relative.
2. The child was not eligible to receive SSI or federal AFDC-FC while in the care of the relative. (Children receiving SSI or federal AFDC-FC have been considered eligible for federal AAP since the program's inception.)
3. The child meets federal AFDC-FG or U eligibility criteria at the time the petition to adopt is filed. A child for whom parental rights have been terminated voluntarily or involuntarily, as is always the case when a petition is filed in an agency adoption, meets the deprivation test. Thus, the principal eligibility question is whether the child meets the AFDC financial need test.

In addition to the fiscal benefits to the State and counties associated with correcting this error, correction will mean that affected children who live outside of California will have access to federal Medicaid benefits from their state of residence rather than MediCal only from California.

To reflect the correct application of federal eligibility requirements in adoptions by caretaker relatives, the Department will revise regulations (EAS 45-802.122) and the "Federal Eligibility Certification for Adoption Assistance Program" (FC 8) and "Federal Eligibility Information for Adoption Assistance Program" (FC 9) forms. Until these revisions are complete, the following instructions should be followed:

New Cases

If the child is being adopted by a caretaker relative, the agency is to include this information on the FC 8 sent to the county by adding the sentence, "This child is being adopted by her/his caretaker relative." after the paragraph which begins, "We are requesting..." The agency shall also modify the form by adding the following statement (as statement 5) to the form, "The child is eligible to receive federal AFDC-FG/U."

When completing the form, the county shall then check the appropriate yes or no column.

In those cases in which the county has indicated that the child is federal AFDC-FG or U eligible, the agency shall add the following statement to the FC 9 between items 3 and 4, "The child is being adopted by a caretaker relative and meets the federal eligibility requirements for AFDC-FG or U."

In those cases in which this statement is present and the response to item 4 supports continuing eligibility, the county shall treat the case as a federal (and thus not a State only) AAP case.

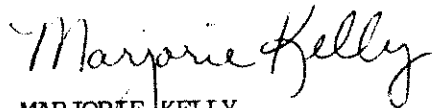
Existing Cases

The Department has not determined whether counties and agencies will be required to review all ongoing AAP cases currently assumed not to be federally eligible to identify those cases which are incorrectly classified. Any such required review would be the subject of a future letter. However, when counties or agencies in the course of routine case maintenance activities identify cases that appear incorrectly classified, the correct federal or non-federal status should be determined using the FC 8 and FC 9 as described above.

Any reclassification would affect both future payments and any payments made in the eighteen months prior to the quarter in which the reclassification and claim adjustment occurs. When cases are reclassified as federal cases, families who live outside of California must be informed of the change and of the fact that the child is eligible for Medicaid in the state of residence.

The California Department of Social Services has determined that this change in policy meets the criteria for waiving the nine-month claiming limitation. Subject to eighteen months after the end of the calendar quarter in which costs were paid, prior claims are adjusted by using line 9 of the "Summary Report of Assistance Expenditures - Adoption Assistance Program Non Federal" (AD 800B) and line 9 of the "Summary Report of Assistance Expenditures - Adoption Assistance Program/Federal" (AD 800A).

If you have any question concerning Adoptions Assistance Program eligibility determination, please contact Joseph Magruder, Adoptions Policy Consultant at (916) 323-0524 (Calnet 473-0524). If you have questions concerning the claiming process, please contact Stephanie Davis of the Fiscal Policy and Procedures Bureau at (916) 654-0942 (Calnet 464-0942).



MARJORIE KELLY
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Children and Family Services

c: CWDA
DHHS, Region IX, Attn: Elaine Ng